STATE OF MICHIGAN

SUPREME COURT

MARK P. JAMES
Plaintiff-Appellee,

and

AUTO-OWNERS INSURANCE COMPANY
Intervening Plaintiff-Appellee,

v

AUTO LAB DIAGNOSTICS & TUNE UP CENTERS
FARMERS INSURANCE EXCHANGE
Defendants-Appellants,

and

SECOND INJURY FUND, PERMANENT & TOTAL DISABILITY PROVISIONS
Defendant-Appellee.
_____/

Supreme Court no. 128355

Court of Appeals no. 257993

WCAC
Lower Court no. 04-000002

128355 (24)

NOTICE OF HEARING

MOTION FOR LEAVE TO FILE BRIEF AMICUS CURIAE

BRIEF AMICUS CURIAE IN SUPPORT OF APPLICATION FOR LEAVE TO APPEAL

12/6

PROOF OF SERVICE

28591 (6)

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NOTICE OF HEARING

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Please take notice, that the motion for leave to file a brief amicus curiae will be heard by the Supreme Court on Tuesday, December 6, 2005.

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MOTION FOR LEAVE TO FILE BRIEF AMICUS CURIAE

Liberty Mutual Insurance Company asks the Court for leave to file a brief amicus curiae because

1. Liberty Mutual Insurance Company provides hundreds of employers with the insurance for the responsibility to pay workers' disability compensation when an employee receives a personal injury arising out of and in the course of employment.

2. Liberty has scores of claims for compensation by employees who were injured during travel away from the principal place of employment provided by an insured employer.

3. The brief amicus curiae of Liberty provides the Court with a depth of perspective on the question about the meaning of **in the course of employment by an employer** in the first sentence of MCL 418.301(1).

4. The only active opposition to the participation of Liberty as an amicus curiae is by plaintiff-appellee Mark P. James. Counsel for James, Michael W. Podein, expressed active opposition to the participation of Liberty as an amicus curiae during a telephone conversation on (Thursday) November 3, 2005. Counsel did not explain the specific reason for the opposition. Counsel for all of the other parties expressed no opposition to the participation of Liberty as an amicus curiae when contacted on (Thursday) November 3, 2005.

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BRIEF AMICUS CURIAE IN SUPPORT OF APPLICATION FOR LEAVE TO APPEAL

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STATEMENT OF THE BASIS FOR THE JURISDICTION OF THE COURT

Amicus curiae Liberty Mutual Insurance Company recognizes that the statement of the basis for the jurisdiction of the court by defendants-appellants Auto Lab Diagnostics & Tune Up Centers and Farmers Insurance Exchange in the *Application for leave to appeal* is accurate and complete.

STATEMENT OF QUESTION PRESENTED

I

DOES THE RULING IN THE CASE OF *BUSH v PARMENTER, FORSYTHE, RUDE & DETHMERS*, 413 MICH 444; 320 NW2d 858 (1982) INFORM THE MEANING OF *IN THE COURSE OF EMPLOYMENT* IN THE FIRST SENTENCE OF MCL 418.301(1)?

Plaintiff-appellee James answers "Yes."

Intervening plaintiff-appellee Auto-Owners answers "Yes."

Defendants-appellants Auto Lab - Farmers answer "No."

Defendant-appellee Second Injury Fund answers "No."

Amicus curiae Liberty Mutual answers "No."

Court of Appeals denied leave to appeal.

Workers' Compensation Appellate Commission answered "Yes."

Board of Magistrates answered "Yes."

STATEMENT OF FACTS

Randy Gable was the owner of Auto Lab Diagnostics & Tune Up Centers who made some reservations at a seminar. When other employees declined, Gable gave Mark P. James and Brian Booher the chance to go. Both accepted. Gable gave some money to Booher for gas and food and then he and James left work early to change at home. They met later to drive to the seminar. They never reached the seminar because Booher crashed into another car. Transcript of the hearing before the Board of Magistrates on May 19, 2003, 17-18, 21, 45. Transcript of the hearing before the Board of Magistrates on June 6, 2003, 5, 7, 11, 62.

James filed an application for mediation or hearing with the Workers' Compensation Agency for weekly compensation and the costs of medical care from Auto Lab and its compensation insurer, Farmers Insurance Exchange, because of the personal injuries that were received in the car crash. James also claimed an augmentation to the weekly compensation from the Second Injury Fund because of the severity of the injuries. *Application for mediation or hearing* of April 2, 2002, 1. Auto-Owners Insurance Company filed an application for mediation or hearing for reimbursement of the wage loss benefit and the costs of the medical care that had been paid by the terms of the automobile no-fault insurance provided to James. *Application for mediation or hearing* of September 10, 2002. Auto Lab and Farmers appeared and denied responsibility for either claim in a carrier's response. The Second Injury Fund did the same.

The Agency consolidated the claims and remitted them to the Board of Magistrates for hearing and disposition.

The Board conducted hearings and decided that James was **in the course of employment** by Auto Lab when injured because of the ruling in the case of *Bush v Parmenter, Forsythe, Rude & Dethmers*, 413 Mich 444; 320 NW2d 858 (1982) and ordered Auto Lab and Farmers to reimburse Auto-Owners the wage loss benefits and the costs of the

medical care already paid to James; to pay James all of the remaining weekly compensation and costs of medical care; and to pay the lawyer hired by James a portion of the weekly compensation and the costs of medical care for James as an attorney fee. The Second Injury Fund was ordered to pay the augmentation to the weekly compensation. *James v Auto Lab Diagnostics & Tune Up Centers*, unpublished order and opinion of the Board of Magistrates, decided on December 18, 2003 (Docket no. 121803014). Appendix DD.

The Workers' Compensation Appellate Commission affirmed except for the order that Auto Lab and Farmers pay a portion of the weekly compensation as a fee for the lawyer hired by James, which was reversed. *James v Auto Lab Diagnostics*, 2004 Mich ACO #245. Appendix CC.

The Court of Appeals denied leave to appeal for lack of merit. *James v Auto Lab Diagnostics & Tune Up Centers*, unpublished order of the Court of Appeals, decided on February 22, 2005 (Docket no. 257993). Appendix BB.

The Court ordered arguments before deciding whether to grant leave to appeal or take other action. *James v Auto Lab Diagnostics & Tune Up Centers*, 474 Mich - ; - NW2d - (Docket no. 128355, rel'd October 14, 2005). Appendix AA.

ARGUMENT

I

THE RULING IN THE CASE OF *BUSH v PARMENTER, FORSYTHE, RUDE & DETHMERS*, 413 MICH 444; 320 NW2d 858 (1982) DOES NOT INFORM THE MEANING OF *IN THE COURSE OF EMPLOYMENT* IN THE FIRST SENTENCE OF MCL 418.301(1).

In deciding the case of *Bush v Parmenter, Forsythe, Rude & Dethmers*, 413 Mich 444; 320 NW2d 858 (1982), the Court had two offerings about the meaning of the first sentence of MCL 418.301(1), which states that, "An employee, who receives a personal injury arising out of and in the course of employment by an employer who is subject to this act at the time of the injury, shall be paid compensation as provided in this act." The first

was that activity that was simply encouraged by the employer was **in the course of employment by an employer** as a "special mission." *Bush, supra*, 451, "By encouraging its attorneys to attend these employment-related, educational seminars, defendant was in effect sending Bush on a special mission." The second offering was that social activity by an employee was not **in the course of employment** when it "dwarfed" the occupational. *Bush, supra*, 460, "The plaintiff's decedent's business detour was so great and unrelated to his business that the deviation dwarfed the business portion of the trip. * * * Thus, any nexus between the employment and the injury was dissolved."

The first statement is not authoritative because there was no dispute that the activity of Bush of traveling to, attending, and returning from an evening seminar was **in the course of employment** as the Court recognized by stating in *Bush, supra*, 452-453, that, "it is undisputed that decedent was within the course of his employment travelling to, attending and returning from the Grand Rapids seminar." Certainly, any such statement by the Court about a point that was never questioned is not authoritative and is no part of the law. In the case of *Allen v Duffie*, 43 Mich 1, 11; 4 NW 427 (1880), the Court considered and said of an earlier ruling that, "The report of the case does not show that the illegality was contested, and the case seems to have turned on a question of ratification. A point thus assumed without consideration is of course not decided."

And there was good reason that there was no dispute that the travel to, attendance, and return from the seminar was **in the course of employment**. It was quite unnecessary. Bush was not injured while en route to, at, or returning from the seminar. The signal and decisive question was whether the long, uninterrupted hours of social activity after the seminar had ended was **in the course of employment** for it was the social activity that led to the injury of Bush, which the Court reported as, "This case turns on whether the deviation of decedent Bush was so extensive, in that it lasted for such a long time and incurred substantial increases in danger to decedent unrelated to his employment, that the

business character and purpose of the trip dissolved prior to the injury." *Bush, supra*, 450. Certainly, such a statement about the law which is not essential to deciding the immediate case is not authoritative and is no part of the law as the Court said in the case of *People v Case*, 220 Mich 379, 382-383; 190 NW 289 (1922) that, "It is a well-settled rule that any statement and comments in an opinion concerning some rule of law or debated legal proposition not necessarily involved nor essential to determination of the case in hand are, however illuminating, but obiter dicta and lack the force of an adjudication."

Another reason that the first statement is not authoritative is that it was a blunder. The genealogy of "encouraging its attorneys to attend these employment-related seminars, defendant was in effect sending Bush on a special mission" is confused at best.[1]

---

[1] Judge Posner described the genealogical technique in *The Problems of Jurisprudence* 240 (Harvard University Press 1990),

> "By tracing legal doctrines to their origins and thus relating each doctrine to a particular constellation of social circumstances, Holmes showed the absurdity of supposing, as did the nineteenth-century formalists against whom he was writing, that legal doctrines were unchangeable formal concepts like the Pythagorean theorem. He enforced the lesson of ethical relativism, thereby turning law into dominant public opinion in much the same way that Nietzsche turned morality into public opinion.[28]
>
> The genealogical technique continues to be an effective one in law. Often one traces a line of precedents to its source and finds that the first of the line is a mere assertion and that the next merely cited the first, and so on to the latest decision. The genealogical technique can thus show that a rule that seems firmly grounded in precedent actually rests on sand.
>
> * * *
>
> [28] See, for example, Lochner v. New York, 198 U.S. 45, 75 (1905) (dissenting opinion); Holmes, 'Herbert Spencer: Legislation and Empiricism,' in *Justice Oliver Wendell Holmes: His Book Notices and Uncollected Letters and Papers* 104 (Harry C. Shriver ed. 1936). Robert W. Gordon, 'Holmes' *Common Law* as Legal and Social Science,' 10 *Hofstra Law Review* 719, 746 (1982), notes—unfortunately without elaboration— Holmes's 'Nietzschean insight into the power relations underlying systems of rights and morals.'"

In the first case that the Court cited — *LeVasseur v Allen Electric Co*, 338 Mich 121; 61 NW2d 93 (1953) — there was not even a question that the activity of the employee was **in the course of employment**. The problem reported by the Court in the case of *LeVasseur, supra*, 123, was that "Defendants insist that plaintiff's injuries did not **arise out of** employment." (emphasis supplied) The reason for this was that a tree limb fell and hurt LeVasseur who was en route to a job. *LeVasseur, supra*, 122-123,

> "plaintiff, after placing his tools in his car, set out for the school traveling along the most direct route. While driving along the road a limb fell from a tree onto the car, penetrated the canvas top and struck plaintiff. It knocked him unconscious so that he lost control of the car, which crashed into a tree. Plaintiff suffered severe injuries . . ."

The Court decided that the injury was **arising out of** employment, *LeVasseur, supra*, 125. The cases that involved injury from weather — *Nelson v Country Club of Detroit*, 329 Mich 479; 45 NW2d 362 (1951), *Klawinski v Lake Shore & Michigan Southern R Co*, 185 Mich 643; 152 NW 213 (1915), and *Their v Widdifield*, 210 Mich 355; 178 NW 16 (1920) — were distinguished because there was no "unusual weather," *LeVasseur, supra*, 123, and the case of *Levchuk v Krug Cement Products Co*, 246 Mich 589; 225 NW 559 (1929), involving a bird crashing into a work truck, was not authoritative having been decided by an equally divided Court. *LeVasseur, supra*, 124.[2] But nowhere did the Court consider or even comment on **in the course of employment**. Moreover, the Court reported that LeVasseur was told to stay home and then directed by Allen Electric to go to a school where there was a job to do,

> "Because of a shortage of materials, defendant requested plaintiff to remain home until further notice. During the noon hour on September 12, 1950, defendant called plaintiff at his home and requested him to go to the Central High School in Bay City to hook up a cable for the electric ranges in the home economics department." *LeVasseur, supra*, 122.

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[2] *Levchuk, supra*, has been since recognized as *the* authority for travel in an automobile provided by an employer as in the course of employment despite this. *Simkins v Gen Motors Corp (After Remand)*, 453 Mich 703, 723, n 24; 556 NW2d 839 (1996).

This was an actual requirement, and not just *encouraging* an employee do to something.

The next case that was cited — *Stockley v School Dist No. 1 of Portage Twp*, 231 Mich 523; 204 NW 715 (1925) — was akin to *LeVasseur, supra*. The Court reported that the School District required Stockley to go to a seminar. School was closed and Stockley — a teacher — would be paid for the day upon attending the seminar. Failing to attend would reflect negatively as well as going unpaid. *Stockley, supra*, 529-530. There, the Court observed that,

> "When this teachers' institute was called in that district as provided for by statute, the Houghton schools were closed on the appointed day, as the law authorities, for the teachers to attend it. They were timely notified and instructed by the superintendent to attend. The law impliedly recognizes so attending as a service under their contract equivalent in value to teaching and requires that they be paid accordingly. Under such conditions it can fairly be said that deceased was performing a special duty within the scope of her contract and course of her employment when devoting the day to attending the institute as directed."

It cannot be fairly said that the School District had just *encouraged* Stockley to attend.

The last decision cited by the Court — *Mann v Bd of Ed of City of Detroit*, 266 Mich 271; 253 NW 294 (1934) — was not even thought to apply. The Court referenced the case of *Mann, supra*, with the citation signal **Cf.** The citation signal **Cf.** means that the cited authority provides an analogy that supports the stated proposition. A parenthetical to explain the analogy is usually needed because the authority directly supports a different proposition. Garner, *The Redbook, A manual on legal style* 112 (Thomson 2002). Certainly, the **Cf.** reference to *Mann, supra*, is difficult to apprehend as the circumstances of that case were not comparable to those in *Bush, supra*. Mann was the principal of a high school who was hurt traveling to a university where the performance of former students would be discussed. The

meeting was at the invitation of the university, not the high school. *Mann, supra*, 271-272. There, the Court reported that,

> "LaVerne B. Mann was principal of the Eastern High School in the City of Detroit. December 8, 1932, while on his way to Ann Arbor he met with an automobile accident and received fatal injuries. He was traveling in response to an invitation from the registrar of the university of Michigan to visit Ann Arbor on that day and confer with freshman at the university who had graduated from the school of which he was principal."

Mann, supra, could be compared to *Bush, supra*, by analogy had Bush been invited by the bank. But according to the Court in *Bush, supra*, 450-451, Bush was asked or encouraged by his law firm employer to attend the seminar, not by the bank that was the host of the meeting. At least, an explanation of how *Mann, supra*, was comparable was in order with the citation by **Cf.** in *Bush, supra*.

The Court also referred to several other decisions to describe what was said to be a special mission exception to a general rule for travel. *Bush, supra*, 451-452. This was mistaken. None of these decisions support such a rule and certainly said nothing about an injury during travel as **in the course of employment** because the employer had encouraged the trip or had some general interest. One — *Thomas v Certified Refrigeration, Inc*, 392 Mich 623; 221 NW2d 378 (1974) — considered but eschewed deciding whether an injury was in the course of employment because there was "some general employer interest" or was "incidental to the employment." The Court considered three questions in *Thomas, supra*, 626,

> "In deciding this issue the following three questions must be resolved:
>
> 1) Is *Conklin v Industrial Transport, Inc*, 312 Mich 250; 20 NW2d 179 (1945), which held that even a slight deviation to carry out a personal mission would preclude compensation, still good law?
>
> 2) Is injury compensable which occurs off the employment premises during an employer approved personal activity, where there is some general employer interest?

> 3) Is injury compensable which occurs off the employment premises during a personal activity unapproved by the employer but where the activity is incidental to the employment relationship?"

but answered only the first and deferred the second and last,

> "we hold in response to the Workmen's Compensation Appeal Board question that *Conklin* due to basic changes in the workmen's compensation law is no longer controlling precedent in Michigan. We have examined the other two questions raised in this matter but *do not* find we would be justified in ruling definitively on either as both parties and the Workmen's Compensation Administration deserve an opportunity to prepare a record, decision and arguments directed to our observations in this case, and we in turn, if necessary, would be in a better position to do justice for all concerned." *Thomas, supra*, 638. (emphasis by the Court)

The overruling of *Conklin v Ind Transport, Inc*, 312 Mich 250; 20 NW2d 179 (1945) to allow compensation for a "slight deviation for some personal activity" hardly informs the meaning of **in the course of employment**. That decision has the predicate that the activity of the employee is **in the course of employment** and only establishes that activity remains **in the course of employment** despite some personal interest of the employee. It is uncoupled from any "special mission." And it has nothing to do with activity encouraged by the employer.

The other two decisions — *Dent v Ford Motor Co*, 275 Mich 39; 265 NW 518 (1936) and *Hills v Blair*, 182 Mich 20; 148 NW 243 (1918) — involved employees who were injured near or at work while going home. In *Hills, supra*, 29, the Court reported that,

> "deceased left the locality and sphere of his employment at a time when work was suspended, that he was doing nothing within the scope of his employment, was not under the direction or control of his employer, and went away for purposes of his own, going where and as he pleased. Though he was traveling on his employer's premises when injured, he was then 950 feet away from where any duty in the line of his employment called him, and had selected his own route."

In *Dent, supra*, 40, the employee fell in the street outside the factory where he worked,

> "He was employed in defendant's power house and, October 15, 1929, having finished work for the day, checked out and started for his home, leaving defendant's premises by way of a gate opening on a public street and, while in the street, a few feet from the gate, in crossing a railroad track, slipped on one of the rails and was injured."

Plainly, these were unadulterated cases of commuters. Hills was going home for lunch and Dent was going home at the end of the day. Neither was doing anything for the employer. Neither was doing anything at the behest of the employer. Neither had been inspired or encouraged by the employer. It is problematic how they could be cited by the Court in *Bush, supra*.

More disturbing, the rulings in *Hills, supra*, and *Dent, supra*, were superceded by the enactment of the first sentence of MCL 418.301(3), which states that, "An employee going to or from his or her work, while on the premises where the work is to be performed, and within a reasonable time before and after his or her working hours, is presumed to be in the course of his or her employment." This statute which changed the law that was announced in the cases of *Hills, supra*, and *Dent, supra*, was in effect when *Bush, supra*, was decided but did not receive any mention there at all.

The only authority that the Court cited and quoted in *Bush, supra*, Professor Arthur Larson, does not support the first statement that by encouraging activity, the employer made that **in the course of employment**. Rather, Professor Larson said that requiring or urging the employee to take action was needed for the activity to be **in the course of employment by the employer**,

> "As Professor Larson noted:
>
> > 'When an employee, having identifiable time and space limits on his employment, makes an off-premises journey which would normally not be covered under the usual going and coming rule, the journey may be brought within the course of employment by the fact that the trouble and time of making the journey, or the special inconvenience, hazard, **or urgency** of making it in the particular circumstances, is itself sufficiently substantial to be viewed as an integral part of the service itself.'

> 1 Larson, Workmen's Compensation Law, § 16.10, p 4-123 (footnotes omitted)." *Bush, supra,* 452. (emphasis supplied)

Indeed, the most disturbing feature of the decision of the Court is a studied disregard of all that Professor Larson had to say. Professor Larson added that *encouragement* of employees' attendance at seminars was not enough to consider the travel to and from to be **in the course of employment**,

> "attending of conventions, institutes, seminars, and trade expositions, compensability similarly turns on whether claimant's contract of employment contemplated attendance as an incident of his work. It is not enough that the employer would benefit indirectly through the employee's increased knowledge and experience. . . .
>
> Employment connection may be supplied by varying degrees of employer encouragement or direction. The clearest case for coverage is that of a teacher who is directed to attend a teacher's institute. It is also sufficient if attendance, although not compulsory, is 'definitely urged' or 'expected,' but **not** if it is merely 'encouraged.'" 1A Larson, *Workers Compensation Law,* 5-397-403, cited with approval in *Camburn v Northwest Sch Dist (After Remand),* 459 Mich 471, 477-478; 592 NW2d 46 (1999).

Had the question been disputed, had the question been fully briefed, and had the question been discussed during argument, the Court might have learned of this — the complete view of Professor Larson — and not have announced a rule that was directly contradicted by him.

In connection with its first statement, the Court said in *Bush, supra,* 451, n 5, that, "the test is whether under the contract of employment construed in the light of all of the attendant circumstances, there is an express or implied undertaking by the employer to provide the transportation." This was not germane to the subject of activity **in the course of employment**. This was only germane to the other part of the first sentence of section 301(1), **arising out of employment**. The Court recognized this in both of the cases that were cited in footnote 5. In the case of *Konopka v Jackson Co Rd Comm,* 270 Mich 174, 177; 258 NW2d 429 (1935), the Court said that, "the accident did **arise out of** the transportation

which clearly, in the contemplation of both the employer and employee, was an incident to and part of Konopka's employment." (emphasis supplied) And in the case of *Chrysler v Blue Arrow Transport Lines*, 295 Mich 606, 609; 295 NW 331 (1940), the Court said that the injury of Chrysler, who was a truck driver hauling cargo for delivery, was **arising out of employment** because "travel itself was the employment."

The second declaration of the Court in *Bush, supra* — that the social activity was not in the course of employment when it "dwarfed" the occupational — was superceded by the enactment of the third sentence of section 301(3), which states that, "an injury occurred in the pursuit of an activity the major purpose of which is social or recreational is not covered under this act."

Although in effect when the Court decided the case of *Bush, supra*, the second sentence of section 301(3) was not actively considered and applied having not been a law when Bush was injured. Bush was injured on October 6, 1971, *Bush, supra*, 448, and allowing only the statutes that were then in effect to apply to describe the eligibility for compensation. *Tarnow v Ry Express Agency*, 331 Mich 558, 563; 50 NW2d 318 (1951). *Miklik v Michigan Special Machine Co*, 415 Mich 364, 368, n 4; 329 NW2d 713 (1982). *White v Gen Motors Corp*, 431 Mich 387, 393; 429 NW2d 576 (1988). However, it is this principle that the law at the time of injury that requires applying the second sentence of section 301(3) to a claim for compensation based on an injury after January 1, 1982, when the statute was first effective. See *Eversman v Concrete Cutting & Breaking*, 463 Mich 86; 614 NW2d 862 (2000). *Bush, supra*, means nothing when the statute — the second sentence of section 301(3) — applies.

After deciding *Bush, supra*, the Court decided the case of *Camburn, supra*, where the question about the meaning of **in the course of employment** in the first sentence of section 301(1) *was* presented, *was* briefed and argued, and *was* decided with a complete understanding of the law recapitulated by the leading commentator, Professor Larson. There

was no alternate basis for decision such as the second sentence of section 301(3) as in *Bush*, *supra*, or in *Eversman*, *supra*, 93.

The Court ruled that activity was **in the course of employment** when directed or required by the employer but not merely encouraged or recommended. *Camburn*, *supra*, 478,

> "attendance was neither compulsory nor definitely urged or expected. Instead, it was merely encouraged, and, as such, was not an incident of employment. Therefore, plaintiff's injury did not arise out of and in the course of her employment."

The only other decision by the Court was in the case of *Simkins*, *supra*, concerning the meaning of the first sentence of section 301(3), which informs the meaning of **in the course of employment** by supplying a presumption and superceding decisions such as *Hills*, *supra*, and *Dent*, *supra*. There, the Court considered and decided that injury between two places that were owned by the employer was **in the course of employment**,

> "We adopt the standard articulated by the Court of Appeals and hold that, when an employee is going to work or coming from work, an injury that occurs on property not owned, leased, or maintained by his employer is in the course of employment only if the employee is traveling in a reasonably direct route between the parking area owned, leased, or maintained by the employer and the worksite itself . . ."

And in *Simkins*, *supra*, 723, the Court distinguished this from an injury on a public street traveling to property not owned by the employer,

> ". . . we hold that there is no recovery for an employee who is injured on a public street or other property not owned, leased, or maintained by the employer while traveling to or from a nonemployer parking lot because this injury is not in the course of employment."

RELIEF

Amicus curiae Liberty Mutual Insurance Company asks the Supreme Court to reverse the order and opinion entered by the Workers' Compensation Appellate Commission and remand the case for reconsideration by the Workers' Compensation Appellate Commission.

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